

§ 361.31

local government that poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime.

(4) For the purposes of paragraph (b) of this section, *public safety officer* means a person serving the United States or a State or unit of local government, with or without compensation, in any activity pertaining to—

(i) The enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces;

(ii) A correctional program, facility, or institution if the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees;

(iii) A court having criminal or juvenile delinquent jurisdiction if the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees; or

(iv) Firefighting, fire prevention, or emergency rescue missions.

(c) *American Indians.* (1) The State plan must assure that vocational rehabilitation services are provided to American Indians with disabilities residing in the State to the same extent that these services are provided to other significant groups of individuals with disabilities residing in the State.

(2) The State plan also must assure that the designated State unit continues to provide vocational rehabilitation services, including, as appropriate, services traditionally used by Indian tribes, to American Indians with disabilities who reside on reservations and are eligible for services by a special tribal program under 34 CFR part 371.

(Authority: Secs. 7, 101(a)(13), 101(a)(20), and 130(b)(3) of the Act; 29 U.S.C. 706, 721(a)(13), 721(a)(20), and 750(b)(3))

§ 361.31 Utilization of community resources.

The State plan must assure that, in providing vocational rehabilitation services, public or other vocational or technical training programs or other

34 CFR Ch. III (7–1–00 Edition)

appropriate community resources are used to the maximum extent feasible.

(Authority: Sec. 101(a)(12)(A) of the Act; 29 U.S.C. 721(a)(12)(A))

§ 361.32 Utilization of profitmaking organizations for on-the-job training in connection with selected projects.

The State plan must assure that the State unit has the authority to enter into contracts with profitmaking organizations for the purpose of providing on-the-job training and related programs for individuals with disabilities under the Projects With Industry program, 34 CFR part 379, if it has been determined that they are better qualified to provide needed services than non-profit agencies, organizations, or programs in the State.

(Authority: Sec. 101(a)(21) of the Act; 29 U.S.C. 721(a)(21))

§ 361.33 Use, assessment, and support of community rehabilitation programs.

(a) The State plan must contain a description of how the designated State unit uses community rehabilitation programs to the maximum extent feasible to provide vocational rehabilitation services in the most integrated settings possible, consistent with the informed choices of the individuals. This description must—

(1) Include the methods the designated State unit uses to ensure the appropriate use of community rehabilitation programs;

(2) Provide, as appropriate, for entering into agreements with the operators of those community rehabilitation programs;

(3) Specify the manner in which the designated State unit will establish cooperative agreements with private non-profit vocational rehabilitation service providers;

(4) Contain the findings resulting from an assessment of the capacity and effectiveness of community rehabilitation programs, including programs under the Javits-Wagner-O'Day Act, based on the use of those programs; and

(5) Contain plans for improving community rehabilitation programs based

on the assessment in paragraph (a)(4) of this section.

(b) If the State plan provides for the establishment, development, or improvement of a public or nonprofit community rehabilitation program, the State plan must contain a description of the need to establish, develop, or improve, as appropriate, the community rehabilitation program to provide vocational rehabilitation services to applicants and eligible individuals, based on the assessment and improvement plans required in paragraphs (a)(4) and (a)(5) of this section.

(Approved by the Office of Management and Budget under control number 1820-0500)

(Authority: Secs. 101(a)(5)(A), 101(a)(12)(B), 101(a)(15)(B), 101(a)(27), 101(a)(28), and 103(b)(2) of the Act; 29 U.S.C. 721(a)(5), (12), (15), (27), and (28) and 723(b)(2))

§ 361.34 Supported employment plan.

(a) The State plan must assure that the State has an acceptable plan under 34 CFR part 363 that provides for the use of funds under that part to supplement funds under this part for the cost of services leading to supported employment.

(b) The supported employment plan, including any needed annual revisions, must be submitted as a supplement to the State plan.

(Approved by the Office of Management and Budget under control number 1820-0500)

(Authority: Secs. 101(a)(25) and 635(a) of the Act; 29 U.S.C. 721(a)(25))

§ 361.35 Strategic plan.

(a) The State plan must assure that the State—

(1) Has developed and implemented a strategic plan for expanding and improving vocational rehabilitation services for individuals with disabilities on a statewide basis in accordance with subpart D of this part; and

(2) Will use at least 1.5 percent of its allotment under this program for expansion and improvement activities in accordance with § 361.73(b).

(b) The strategic plan must be submitted at the same time as the State plan.

(Approved by the Office of Management and Budget under control number 1820-0500)

(Authority: Secs. 101(a)(34) and 120 of the Act; 29 U.S.C. 721(a)(34) and 740)

§ 361.36 Ability to serve all eligible individuals; order of selection for services.

(a) *General provisions.* (1) The State plan must contain—

(i) An assurance that the designated State unit is able to provide the full range of services listed in section 103(a) of the Act, as appropriate, to all eligible individuals. The assurance must be supported by an explanation that satisfies the requirements of paragraph (a)(2) or (a)(3) of this section and describes how, on the basis of the designated State unit's projected fiscal and personnel resources and its assessment of the rehabilitation needs of individuals with severe disabilities within the State, it will—

(A) Continue to provide services to all individuals currently receiving services;

(B) Provide assessment services to all individuals expected to apply for services in the next fiscal year;

(C) Provide services to all individuals who are expected to be determined eligible in the next fiscal year; and

(D) Meet all program requirements; or

(ii) The order to be followed in selecting eligible individuals to be provided services, a justification of that order of selection, and a description of the outcome and service goals and service costs to be achieved for individuals with disabilities in each category within the order and the time within which these goals may be achieved.

(2) For those designated State units that provided assurances in their State plans for the current fiscal year and the preceding fiscal year that they are able to provide the full range of services, as appropriate, to all eligible individuals, the explanation required by paragraph (a)(1)(i) of this section must include a statement that, during the